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## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

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| <b>Agency name</b>                                 | Department of Health, Office of Epidemiology  |
| <b>Virginia Administrative Code (VAC) citation</b> | 12 VAC 5-90   |
| <b>Regulation title</b>                            | Regulations for Disease Reporting and Control   |
| <b>Action title</b>                                | Update of Regulations for Disease Reporting and Control -<br>Emergency Regulations for Quarantine and Isolation |
| <b>Document preparation date</b>                   | September 15, 2004  |

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to one year), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation.

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Preamble

*The APA (Code of Virginia § 2.2-4011) states that an "emergency situation" is: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date.*

- 1) Please explain why this is an "emergency situation" as described above.
- 2) Summarize the key provisions of the new regulation or substantive changes to an existing regulation.

The proposed emergency regulations are necessary to comply with an enactment clause appearing at the foot of House Bill 1483 (Act of Assembly, c. 773) and Senate Bill 685 (Act of Assembly, c. 1021). Enacted on April 12, 2004, the bills specify actions to be taken in response

to communicable diseases of public health threat related to quarantine and isolation, and requires that regulations must be effective within 280 days from the date of enactment. This emergency action proposes amending the Regulations for Disease Reporting and Control 12 VAC 5-90-40 (Administration), 12 VAC 5-90-90 (Those Required to Report), 12 VAC 5-90-100 (Methods), and 12 VAC 5-90-10 (Definitions) for selected definitions within the regulations (as necessary to support the proposed changes). In addition, new sections are proposed to address Isolation for Communicable Diseases of Public Health Threat, and Quarantine. This action also proposes renumbering 12 VAC 5-90-110 to enable incorporating the new sections. These changes will enable VDH to comply with the requirements of the *Code of Virginia*, and allow the appropriate response(s) to be taken in the control of communicable diseases. Finally, the new regulations will update the document incorporated by reference (Control of Communicable Diseases Manual) to the newest version (18<sup>th</sup> edition, 2004).

### Legal basis

*Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

The State Board of Health has the authority to promulgate regulations as granted under Sections 32.1-35 through 32.1-73 of the *Code of Virginia* to address these statutory changes. In particular, Part B of § 32.1-48.05 of Article 3.02 of Chapter 2 of Title 32.1 of the *Code of Virginia* directs the State Board of Health to develop regulations to address the provisions of Article 3.02.

### Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

In recognition of the need to strengthen laws related to the control of the spread of communicable disease (both naturally occurring and as a result of intentional releases), while providing appropriate protection of the rights of citizens of the Commonwealth of Virginia, the legislature enacted Article 3.02 (Quarantine and Isolation of Persons with Communicable Diseases of Public Health Threat) of Chapter 2 of Title 32.1 of the *Code of Virginia*. The proposed regulation seeks to provide appropriate details on the public health response to communicable diseases of public health threat. One anticipated outcome of the proposed changes will be to assist Virginia's preparedness efforts for bioterrorism response. Updating the document incorporated by reference will ensure that the public health response uses the most accurate and up-to-date resources available to control the spread of diseases of public health importance.

**Substance**

*Please detail any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons why the regulation is essential to protect the health, safety, or welfare of Virginians. Delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

This emergency action proposes to amend 12 VAC 5-90-40 (Administration) to provide additional detail on the basic responsibilities of the individuals or organizations responsible for the reporting and control of diseases. This includes additional specification of the State Board of Health’s role in addressing emergencies or preventing potential emergencies from diseases dangerous to the public health. This also includes further detail on the methods available to the State Health Commissioner to control the spread of any disease of public health importance. In addition, the amendment will provide additional clarification of the role of the local health director and the Office of Epidemiology in the control of diseases of public health importance.

In addition, 12 VAC 5-90-90 (Those Required to Report) will be amended so that some components of the responsibilities of the local health director (within subsection E) will be moved to 12 VAC 5-90-100 for consistency, and to provide further explanation of the isolation authorities provided. As well, 12 VAC 5-90-100 has been amended to update the document incorporated by reference (Control of Communicable Diseases Manual) to reflect the most recent version (18<sup>th</sup> edition, 2004).

Two new sections are also proposed to address Isolation for Diseases of Public Health Threat, and Quarantine. These sections (proposed 12 VAC 5-90-105 and 12 VAC 5-90-110, respectively) provide the details for the implementation of action to isolate and/or quarantine individuals, groups, or affected areas as a result of a known or suspected risk from a communicable disease of public health threat. As a result of the insertion of these new sections, the section on “dosage and age requirements for immunizations; obtaining immunizations” (previously 12 VAC 5-90-110) has been re-numbered to 12 VAC 5-90-120.

Finally, new definitions have been proposed in 12 VAC 5-90-10, and some existing definitions have been modified or deleted, in order to provide the appropriate context for the above regulation changes and to bring the definitions up-to-date.

| Current section number | Proposed new section number, if applicable | Current requirement  | Proposed change and rationale   |
|------------------------|--|----------------------|---|
| 12 VAC 5-90-10         |  | Definitions of terms | New definitions: affected area, communicable disease of public health significance, communicable disease of public health threat, companion animal, decontamination, essential needs, exceptional circumstances, individual, infection, isolation (complete), isolation |

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|                 |                 |   | (modified), isolation (protective), law-enforcement agency, least restrictive, susceptible individual<br><u>Modifications:</u> commissioner, condition, isolation, quarantine, quarantine (complete), quarantine (modified)<br><u>Deletions:</u> carrier   |
| 12 VAC 5-90-40  |                 | Outlines State Board of Health, State Health Commissioner, local health director, Office of Epidemiology responsibilities related to the control of diseases of public health importance  | Provides additional detail of State Board of Health’s role in addressing emergent public health communicable disease issues. Updates the scope of the State Health Commissioner’s authority in the control of the spread of disease of public health importance. More precisely defines the local health directors’ role in implementing quarantine and isolation orders. Specifies the role of the Office of Epidemiology in issuing disease control protocols. |
| 12 VAC 5-90-90  |                 | Section E provides detail on the role of the local health department and director in contact tracing, follow-up as needed on diseases within their jurisdiction, and outlines methods of control related to modified or complete isolation. | Move to 12 VAC 5-90-100, Methods where methods of controlling diseases of public health importance are detailed (see below, 5-90-100).   |
| 12 VAC 5-90-100 |                 |   | Provides additional details on the role of the local health department and health director in contact tracing, follow-up as needed on diseases within their jurisdiction, and outlines methods of control related to protective, modified or complete isolation.   |
|                 | 12 VAC 5-90-105 |   | Outlines the application, documentation, means, delivery (notification), enforcement, health status monitoring, provision of essential needs, and release of individuals, groups, or affected areas subjected to isolation in response to a communicable disease of public health threat.  |
|                 | 12 VAC 5-90-110 |   | Outlines the application, documentation, means, delivery (notification), enforcement, health status monitoring, provision of essential needs, and release of individuals, groups, or affected areas subjected to quarantine in response to a communicable disease of public health threat.   |
| 12 VAC 5-90-110 | 12 VAC 5-90-120 |   | Revise regulation number to provide room for new regulations in the appropriate location.  |

### Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.*

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As a result of the changes to Virginia statutory law, no feasible alternatives to amending the Regulations for Disease Reporting and Control exist.

### Family impact

*Please assess the impact of the emergency regulatory action on the institution of the family and family stability.*

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The proposed changes will indirectly protect and improve the health of the people of the Commonwealth. No adverse impacts on the institution of the family or on family stability are anticipated.